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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIRST APPELLATE DISTRICT

DIVISION FOUR

PEOPLE OF THE STATE OF
CALIFORNIA,

Plaintiff and Respondent,

v.

EDWARD LEROY CAGLE,

Defendant and Appellant.

A159326

(Napa County Superior Court
Case No. CR137908)

After a two-day trial, a jury found appellant Edward Leroy Cagle to be a mentally disordered offender (MDO) and the trial court extended his commitment to the Department of State Hospitals from December 11, 2019 to December 11, 2020, pursuant to Penal Code¹ sections 2970 and 2972. Cagle's counsel filed an opening brief asking that this court conduct an independent review of the record for arguable issues under *People v. Wende* (1979) 25 Cal.3d 436. Counsel also informed defendant that he had the right to file a supplemental brief on his own behalf, but he declined to do so. Following what defendant concedes is well established authority, we dismiss the appeal because *Wende* procedures do not apply to post-conviction civil

¹ All statutory references are to the Penal Code unless otherwise indicated.

commitment orders under the Mentally Disordered Offender Act (MDOA). (*People v. Taylor* (2008) 160 Cal.App.4th 304, 312.)

I. BACKGROUND

Pursuant to sections 2962 and 2970, the People filed a petition to extend defendant's civil commitment, alleging that he continued to suffer from a severe mental disorder that required treatment and that made him a substantial danger to others. Trial on the petition commenced on December 2, 2019.

In front of the full jury venire, defendant repeatedly interrupted the trial judge with nonsensical comments and profanity. After the jury was seated, the People presented the testimony of an officer from the Napa County Department of Corrections as well as a psychiatrist and psychologist from the Department of State Hospitals.

Dr. Tulasi Kanukuntla, a board-certified psychiatrist, testified that she was defendant's treating psychiatrist from August to October 2019. During that time, she met with defendant via telepsychiatry appointments approximately 20 times. Dr. Kanukuntla testified that defendant suffered from schizoaffective disorder, bipolar type, which manifested in auditory hallucinations, paranoid and grandiose delusions, as well as verbal and physical aggression. She stated that defendant threatened to kill her and other members of hospital staff and made additional threats to members of a treatment panel. Dr. Kanukuntla further testified that defendant has poor insight into his condition because he believes he does not suffer from mental illness and does not need medication.

Similarly, Dr. Robin Campbell, a psychologist with the Department of State Hospitals, testified that she reviewed approximately 400 pages of medical records and conducted a tele-evaluation of defendant in April 2019.

Defendant told her he was Jesus Christ, the “king of kings and lord of lords,” and that he was receiving messages from “satellites that were locked into his brain waves and were controlling nuclear devices.” Based on her record review and interview with defendant, she concluded he suffered from schizoaffective disorder, bipolar type, and he was still exhibiting symptoms of his mental illness despite taking medication. Defendant, however, told her he did not believe he needed medication and she did not believe he would continue with medication if he was permitted to leave the hospital. Dr. Campbell concluded that defendant’s mental illness was not in remission, as he was actively psychotic and delusional, and that he represents a substantial danger of physical harm.

Officer Josue Diaz, from the Napa County Department of Corrections, also testified about his interactions with defendant. Officer Diaz testified that on November 12, 2019, defendant had smeared feces all over his jail cell while yelling incoherently and making obscene gestures to correctional staff who were trying to get him out of his cell so it could be cleaned. Diaz stated that defendant removed all his clothing and was hitting his head on the door of his cell, and that he had to be removed from his cell and placed into a restraint chair in a safety cell because he continued to scream incoherently and resist commands.

II. DISCUSSION

Defendant’s counsel filed a *Wende* brief, requesting that we independently review the record to determine whether it contains any arguable issues for appeal. Counsel acknowledges, however, the well-settled law that *Wende* procedures do not apply to orders extending commitments under the MDOA. (*People v. Taylor, supra*, 160 Cal.App.4th at p. 312.) Counsel nonetheless asks us to exercise our discretion to undertake a *Wende*

review, “yet he offers no legitimate reason for us to do so.” (*Id.* at p. 313.) We decline the request.

III. DISPOSITION

The appeal is dismissed.

BROWN, J.

WE CONCUR:
POLLAK, P. J.
STREETER, J.